

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Sections 1401, 1402
: and 1403 of the Insurance Holding
Application of Aristotle Holding, Inc. in : Companies Act, Article XIV of the
Support of the Request for Approval to : Insurance Company Law of 1921, Act
Acquire Control of Medco Containment : of May 17, 1921, P. L. 682, as
Life Insurance Company : amended, 40 P.S. §§991.1401,
: 991.1402 and 991.1403
: :
: Order No. ID-RC-11-28

DECISION AND ORDER

AND NOW, on this 2nd day of December, 2011, Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of Parties

1. Medco Containment Life Insurance Company (“Domestic Insurer”) is a domestic stock life insurance company organized pursuant to the laws of the Commonwealth of Pennsylvania with its principal place of business located in Franklin Lakes, New Jersey.
2. Medco Health Solutions, Inc. (“Medco”) is a publicly traded business corporation organized under the laws of the state of Delaware with its principal place of business located in Franklin Lakes, New Jersey. Domestic Insurer is a direct wholly-owned subsidiary of Medco.
3. No person controls 10% or more of Medco’s issued and outstanding capital stock.

4. Medco is the sole ultimate controlling person of Domestic Insurer.
5. Aristotle Merger Sub, Inc. is a business corporation organized under the laws of the state of Delaware with its principal place of business located in St. Louis, Missouri.
6. Plato Merger Sub, Inc. is a business corporation organized under the laws of the state of Delaware with its principal place of business located in St. Louis, Missouri.
7. Aristotle Holding, Inc. is a business corporation organized under the laws of the state of Delaware with its principal place of business located in St. Louis, Missouri. Aristotle Holding, Inc. directly holds 100% of the issued and outstanding capital stock of Aristotle Merger Sub, Inc. and Plato Merger Sub, Inc.
8. Express Scripts, Inc. (“Express Scripts”) is a publicly traded business corporation organized under the laws of the state of Delaware with its principal place of business located in St. Louis, Missouri. Express Scripts directly holds 100% of the issued and outstanding capital stock of Aristotle Holding, Inc.
9. No person controls 10% or more of Express Scripts’ issued and outstanding capital stock.

Acquisition Filing

10. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1922, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that all changes in control of domestic insurers must be filed with the Commissioner for approval or disapproval.
11. On October 3, 2011, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an application (which together with all material received subsequently is hereinafter referenced as “Application”) from Aristotle Holding, Inc. for approval to acquire control of Domestic Insurer.
12. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

Department Procedures

13. On October 29, 2011, the Department published notice in the *Pennsylvania Bulletin* that the Application was submitted by Aristotle Holding, Inc. and such notice invited interested persons to submit comments to the Department regarding the Application for thirty days following the date of the publication (“Comment Period”).

14. The Department received no comments regarding the Application during the thirty day Comment Period.

Description of the Proposed Acquisition

15. As described in the Application, effective July 20, 2011, Medco, Aristotle Holding, Inc., Aristotle Merger Sub, Inc., Plato Merger Sub, Inc. and Express Scripts entered into an Agreement and Plan of Merger (“Agreement”) whereby:
 - a) Aristotle Merger Sub, Inc. would merge with and into Express Scripts, with Express Scripts the survivor of the merger; and
 - b) Plato Merger Sub, Inc. would merge with and into Medco, with Medco the survivor of the merger (“Merger”).
16. As described in the Application and pursuant to the Agreement, Aristotle Holding, Inc. would become the sole ultimate controlling person of Domestic Insurer as a result of Merger.

Standards for Review

17. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a change in control of a domestic insurer.

Licensing Requirements

18. When analyzing an application for change in control under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the domestic insurer being acquired.
19. The classes of insurance for which an insurance company may be incorporated and become licensed to write are set out in Section 202 of the Insurance Company Law (40 P.S. §382).
20. The minimum paid up capital stock and paid in surplus required of a stock insurer for each class of insurance is set out in Section 206 of the Insurance Company Law (40 P.S. §386).
21. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Domestic Insurer is required to maintain a minimum paid up capital stock of \$1,100,000 to write the classes of insurance for which it is presently licensed.

22. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Domestic Insurer is required to maintain a minimum paid in surplus of \$550,000 to write the classes of insurance for which it is presently licensed.
23. Upon completion of the transaction, Domestic Insurer will have paid up capital in an amount that will satisfy the statutory minimum required of a life insurance company licensed to write the classes of authority currently held by Domestic Insurer.
24. Upon completion of the transaction, Domestic Insurer will have paid in surplus in an amount that will satisfy the statutory minimum required of a life insurance company licensed to write the classes of authority currently held by Domestic Insurer.

Competitive Impact

25. The acquisition of control of a Pennsylvania domiciled insurer is subject to review and analysis under Section 1403 of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control would be to substantially lessen competition or tend to create a monopoly in the Commonwealth.
26. Section 1403 provides that the market of concern is the insurance business written within Pennsylvania. Products such as Medicare and Medicaid entitlements are not considered to be part of the Pennsylvania insurance market.
27. The acquisition of control of Domestic Insurer will not lessen competition or tend to create a monopoly in the Commonwealth because the market share of Express Script, as stated in the Application, does not exceed the market share levels established in Section 1403.

Financial Condition of Applicant

28. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the acquiring person(s).
29. The Department has reviewed the annual financial statement submitted by Express Scripts as of December 31, 2010.
30. The financial condition of Express Scripts will not pose any impediments to the change in control nor jeopardize the financial condition of Domestic Insurer.

Plans for the Acquired Insurer

31. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals which the acquiring party has for the insurer.
32. As stated in the Application, Express Scripts has no future plans or proposals to liquidate Domestic Insurer, to sell its assets, to merge or consolidate it with any person or persons, or to make any other material change in its business operations or corporate structure.

Management

33. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who will control the operations of the acquired insurer.
34. Biographical affidavits for all directors and executive officers of Express Scripts were reviewed by the Department.
35. The Department is satisfied that the persons who would control the operations of Domestic Insurer have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.
36. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

CONCLUSIONS OF LAW

1. Under Section 1402 of the Insurance Holding Companies Act, the Department has jurisdiction to review and approve the change in control of Domestic Insurer.
2. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a change in control unless the Department has found that:
 - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which they are presently licensed;
 - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
 - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
 - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurers and not in the public interest;
 - e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and the general public to permit the acquisition of control; or,
 - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
 - g) The acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A, Insurance Company Mutual-to-Stock Conversion Act.
3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of Domestic Insurer.
4. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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DECISION AND ORDER

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”) hereby makes the following Order:

The application of Aristotle Holding, Inc. in support of the request for approval to acquire control of Medco Containment Life Insurance Company as set forth in the application, is hereby approved, subject to this Order and the following condition:

Aristotle Holding, Inc. shall provide to the Department a list of closing documents within five (5) days after consummation of the subject transaction and shall maintain the listed documents and make them available to the Department for a period of not less than five (5) years from the date of consummation.

This Order is effective immediately and valid for one (1) year, provided no material changes are made to the transaction prior to consummation. This one year limitation does not apply to any conditions prescribed by the Department in the Order.

Michael F. Consedine
Insurance Commissioner
Commonwealth of Pennsylvania